IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.647 OF 2003

The State of Maharashtra .. Appellant.
Vs.
Dattatraya Baburao Dokhale
(Abated since dead) & Others .. Respondents.

Mrs.M.H.Mhatre A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 17TH JULY, 2006

P.C.:

. Heard learned learned A.P.P. for the State.

2. This appeal is directed against the judgment and order of acquittal dated 30.11.2002, passed by the Judicial Magistrate, First Class, Ghodnadi, Pune. The respondent-accused were tried on the allegations that on 2.12.1999 at 17.30 hours the respondent-accused prevented or detered the public servant from discharging his duties as public servant and also assaulted him at the relevant time. Accused no.1 - Dattatraya Gokhale died during the pendency of trial and therefore the case abated against him. Insofar as accused nos.2 and 3 are concerned, the evidence of P.W.1 - Conductor and P.W.2 - Driver is not consistent. According to Driver - P.W.2, the

complainant caught accused no.3 when remaining two accused fled from the scene of offence, whereas according to P.W.1 - complainant, he caught accused no.1. None of the witnesses could identify the accused, who was caught, in the Court. There is a discrepancy and inconsistency in the evidence which shows that the prosecution could not establish an identity of the accused beyond reasonable doubt before the Court. Considering the reasons recorded by the courts below on appreciation of the evidence on record the impugned judgment cannot be said to be perverse and unreasonable. The view taken by the trial Court is reasonably possible view. In the circumstances this appeal is dismissed.

(D.B.Bhosale, J.)